

## REMARKS

In accordance with the foregoing, claims 15-28 are pending and under consideration.

### CLAIM REJECTIONS UNDER 35 U.S.C. § 103(a)

Claims 15, 16, 18-20 and 26-28 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 6,052,593 to Guimont et al. (hereinafter "Guimont") in view of U.S. Patent Application Publication No. 2004/001429 to Ma et al. ("Ma").

The rejections are respectfully traversed.

The Office Action acknowledged that Guimont fails to disclose that sub-carriers are allocated during different time periods, but relies on Ma<sup>1</sup> to cure this deficiency. However, Ma does not disclose allocation to **radio cells** as recited in claim 15 (i.e., "temporarily during a first time period allocating the sub-carriers to the radio cells", and "allocating the sub-carriers to the radio cells during a second time period"). Rather Ma discloses allocation of the carriers to modes (see, for example , paragraph [0010], and [0125] of Ma). Thus, Guimont and Ma do not render obvious independent claim 15 because the cited prior art references fail to teach or suggest all the features recited in the claim. Therefore, claim 15 and claims 16-26 depending directly or indirectly from claim 15 are patentable over the combination of Guimont with Ma.

Independent claim 27 patentably distinguishes over Guimont and Ma at least by reciting "at least one control device assigning the sub-carriers of the at least one frequency band to said at least two radio cells during a first time period to make all of the sub-carriers temporarily available to each radio cell for transmission of information, and that during a second time period temporarily each of the sub-carriers is available to a subset of the at least two radio cells for transmission of information."

Independent claim 28 patentably distinguishes over Guimont and Ma at least by reciting:

- means for temporarily assigning the sub-carriers of the at least one frequency band to the at least two radio cells during a first time period so that the sub-carriers are temporarily available to each radio cell for the transmission of the information, and
- means for temporarily assigning the sub-carriers of the at least one frequency band among the at least two radio cells during a second time period so that each of the

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<sup>1</sup> Applicants respectfully direct the Examiner attention to the fact that the Ma's filing date of April 4, 2003 is after the priority date of the current application which is October 24, 2002. Applicants recognize that Ma claims priority to the Provisional Application 60/391,624 filed on June 27, 2002. However, the provisional application has a 20 page Specification, while the non-provisional application cited as prior art in the outstanding Office Action has a 56 page Specification.

sub-carriers is temporarily available to a subset of the at least two radio cells for the transmission of the information.

Claim 17 is rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Guimont and Ma in further view of U.S. Patent No. 6,917,580 to Wang et al. ("Wang"). Claims 21 and 22 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Guimont and Ma in further view of U.S. Patent Application Publication No. 2002/0147017 to Li et al. ("Li"). Claim 23 is rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Guimont, Ma and Li in further view of U.S. Patent No. 5,726,978 to Frodigh et al. ("Frodigh"). Claim 24 is rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Guimont, Ma, Li and Frodigh in further view of U.S. Patent Application Publication No.2002/0082016 to Obayashi ("Obayashi").

Wang, Li, Frodigh and Obayashi do not correct or compensate for the above identified failure of Guimont and Ma in rendering obvious the independent claims. Therefore, all the claims depending from claim 15 (i.e. 16-26) patentably distinguish over the cited prior art at least by inheriting patentable features from the independent claim.

#### CONCLUSION

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.


Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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